

**U.S. District Court**  
**District of Columbia (Washington, DC)**  
**CIVIL DOCKET FOR CASE #: 1:16-cv-02408-CKK**

INSTITUTE FOR JUSTICE v. U.S.CUSTOMS AND BORDER  
PROTECTION  
Assigned to: Judge Colleen Kollar-Kotelly  
Cause: 05:551 Administrative Procedure Act

Date Filed: 12/08/2016  
Jury Demand: None  
Nature of Suit: 895 Freedom of  
Information Act  
Jurisdiction: Federal Question

**Plaintiff****INSTITUTE FOR JUSTICE**

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V.

**Defendant****U.S. CUSTOMS AND BORDER  
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Date Filed	#	Docket Text
12/08/2016	<u>1</u>	COMPLAINT <i>for Declaratory and Injunctive Relief</i> against U.S.CUSTOMS AND BORDER PROTECTION ( Filing fee \$ 400 receipt number 0090-4768710) filed by INSTITUTE FOR JUSTICE. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Exhibit E, # <u>6</u> Exhibit F, # <u>7</u> Civil Cover Sheet, # <u>8</u> Summons for U.S Attorney General, # <u>9</u> Summons for US Attorney for DC, # <u>10</u> Summons for Defendant)(Busey, G.) (Entered: 12/08/2016)
12/08/2016	<u>2</u>	Corporate Disclosure Statement by INSTITUTE FOR JUSTICE. (Busey, G.) (Entered: 12/08/2016)
12/08/2016	<u>3</u>	REQUEST FOR SUMMONS TO ISSUE re <u>1</u> Complaint, filed by INSTITUTE FOR JUSTICE. Related document: <u>1</u> Complaint, filed by INSTITUTE FOR JUSTICE. (Attachments: # <u>1</u> Summons, # <u>2</u> Summons)(Busey, G.) (Entered: 12/08/2016)

12/09/2016		Case Assigned to Judge Colleen Kollar-Kotelly. (sb) (Entered: 12/09/2016)
12/09/2016	<u>4</u>	SUMMONS (3) Issued Electronically as to U.S.CUSTOMS AND BORDER PROTECTION, U.S. Attorney and U.S. Attorney General (Attachment: # <u>1</u> Consent Form)(sb) (Entered: 12/09/2016)
12/09/2016	<u>5</u>	ORDER Establishing Procedures for Cases Assigned to Judge Colleen Kollar-Kotelly. Signed by Judge Colleen Kollar-Kotelly on December 9, 2016. (NS) (Entered: 12/09/2016)
12/13/2016	<u>6</u>	NOTICE of Appearance by Daniel P. Muino on behalf of INSTITUTE FOR JUSTICE (Muino, Daniel) (Entered: 12/13/2016)
12/13/2016	<u>7</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. U.S.CUSTOMS AND BORDER PROTECTION served on 12/9/2016 (Muino, Daniel) (Entered: 12/13/2016)
12/13/2016	<u>8</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed on United States Attorney General. Date of Service Upon United States Attorney General 12/9/2016. (Muino, Daniel) (Entered: 12/13/2016)
12/13/2016	<u>9</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed as to the United States Attorney. Date of Service Upon United States Attorney on 12/9/2016. Answer due for ALL FEDERAL DEFENDANTS by 1/8/2017. (Muino, Daniel) (Entered: 12/13/2016)
12/15/2016	<u>10</u>	NOTICE of Appearance by Johnny Hillary Walker, III on behalf of U.S.CUSTOMS AND BORDER PROTECTION (Walker, Johnny) (Entered: 12/15/2016)
01/05/2017	<u>11</u>	Consent MOTION for Extension of Time to File Answer re <u>1</u> Complaint, by U.S.CUSTOMS AND BORDER PROTECTION (Attachments: # <u>1</u> Text of Proposed Order)(Walker, Johnny) (Entered: 01/05/2017)
01/06/2017	<u>12</u>	ORDER GRANTING Defendant's <u>11</u> Consent Motion for Extension of Time. Defendant shall answer or otherwise respond to Plaintiff's Complaint on or before FEBRUARY 8, 2017. Signed by Judge Colleen Kollar-Kotelly on January 6, 2017. (NS) (Entered: 01/06/2017)
01/06/2017		Set/Reset Deadlines: Answer due by 2/8/2017. (dot) (Entered: 01/10/2017)
02/08/2017	<u>13</u>	ANSWER to Complaint by U.S. CUSTOMS AND BORDER PROTECTION.(Walker, Johnny) (Entered: 02/08/2017)
02/10/2017	<u>14</u>	ORDER FOR INITIAL SCHEDULING CONFERENCE. An Initial Scheduling Conference is hereby set for March 21, 2017, at 10:00 a.m. in Courtroom 28A. Signed by Judge Colleen Kollar-Kotelly on 2/10/2017. (lcckk1) (Entered: 02/10/2017)
02/10/2017		Set/Reset Hearings: Initial Scheduling Conference set for 3/21/2017 at 10:00 AM in Courtroom 28A before Judge Colleen Kollar-Kotelly. (dot) (Entered: 02/13/2017)
03/06/2017	<u>15</u>	ORDER. Parties shall file a Joint Status Report by MARCH 21, 2017. The Court's <u>14</u> Order for Initial Scheduling Conference is VACATED. The Initial Scheduling Conference currently scheduled for March 21, 2017 at 10:00 A.M. is VACATED. Signed by Judge Colleen Kollar-Kotelly on 3/6/2017. (lcckk1) (Entered: 03/06/2017)
03/21/2017	<u>16</u>	Joint STATUS REPORT by INSTITUTE FOR JUSTICE. (Busey, G.) (Entered: 03/21/2017)
03/23/2017		MINUTE ORDER: The Court is in receipt of the parties' <u>16</u> Joint Status Report wherein they represent that "the parties are negotiating certain limitations on the scope of the FOIA request under which Defendant would agree to produce [the relevant] records...." Accordingly, the parties request a deferral of their obligation to file a schedule for proceeding in this matter as required by the Court' March 6, 2017 <u>15</u> Order. For good cause shown, that request is GRANTED. The parties shall file a Joint Status Report no later than May 5, 2017 updating the Court regarding the progress of the aforementioned negotiations, and proposing a schedule for further proceedings, if necessary. Signed by Judge Colleen Kollar-Kotelly on 3/23/2017. (lcckk1) (Entered: 03/23/2017)

03/23/2017		Set/Reset Deadlines: Joint Status Report due by 5/5/2017. (dot) (Entered: 03/24/2017)
05/05/2017	<u>17</u>	Joint STATUS REPORT by INSTITUTE FOR JUSTICE. (Muino, Daniel) (Entered: 05/05/2017)
05/10/2017		MINUTE ORDER: The Court is in receipt of the parties' <u>17</u> Joint Status Report wherein they represent that Defendant has produced a disc of materials; that Plaintiff is reviewing this production; and that the parties require additional time to engage in further discussions and to pursue a potential resolution of this matter. Accordingly, the parties shall file a further Status Report by June 5, 2017, updating the Court regarding the status of these discussions, and indicating how the parties intend to proceed. Signed by Judge Colleen Kollar-Kotelly on 5/10/2017. (lcckk1) (Entered: 05/10/2017)
05/10/2017		Set/Reset Deadlines: Joint Status Report due by 6/5/2017. (kt) (Entered: 05/10/2017)
06/05/2017	<u>18</u>	Joint STATUS REPORT by INSTITUTE FOR JUSTICE. (Muino, Daniel) (Entered: 06/05/2017)
06/16/2017		MINUTE ORDER: The Court is in receipt of the parties' <u>18</u> Joint Status Report wherein they represent that Defendant has produced responsive materials and a Vaughn index; that Plaintiff is reviewing this production; and that the parties require additional time to engage in further discussions and to pursue a potential resolution of this matter. Accordingly, the parties shall file a further Status Report by JULY 6, 2017, updating the Court regarding the status of these discussions, and indicating how the parties intend to proceed. Signed by Judge Colleen Kollar-Kotelly on 6/16/2017. (lcckk1) (Entered: 06/16/2017)
06/16/2017		Set/Reset Deadlines: Joint Status Report due by 7/6/2017. (dot) (Entered: 06/20/2017)
07/06/2017	<u>19</u>	Joint STATUS REPORT by INSTITUTE FOR JUSTICE. (Muino, Daniel) (Entered: 07/06/2017)
07/07/2017		MINUTE ORDER: The Court is in receipt of the parties' <u>19</u> Joint Status Report wherein they represent that Defendant will produce supplemental materials; that Plaintiff requires time to review this production; and that the parties intend to engage in further discussions to pursue a potential resolution of this matter. Accordingly, the parties shall file a further Status Report by AUGUST 4, 2017, updating the Court regarding the status of these discussions, and indicating how the parties intend to proceed. Signed by Judge Colleen Kollar-Kotelly on 7/7/2017. (lcckk1) (Entered: 07/07/2017)
07/07/2017		Set/Reset Deadlines: Joint Status Report due by 8/4/2017. (dot) (Entered: 07/07/2017)
08/04/2017	<u>20</u>	Joint STATUS REPORT by INSTITUTE FOR JUSTICE. (Muino, Daniel) (Entered: 08/04/2017)
08/08/2017		MINUTE ORDER: The Court is in receipt of the parties' <u>20</u> Joint Status Report wherein they represent that they intend to engage in further discussions to pursue a potential resolution of this matter. Accordingly, the parties shall file a further Status Report by SEPTEMBER 8, 2017, updating the Court regarding the status of these discussions, and indicating how the parties intend to proceed. Signed by Judge Colleen Kollar-Kotelly on 8/8/2017. (lcckk1) (Entered: 08/08/2017)
08/08/2017		Set/Reset Deadlines: Joint Status Report due by 9/8/2017. (dot) (Entered: 08/09/2017)
09/08/2017	<u>21</u>	Joint STATUS REPORT by INSTITUTE FOR JUSTICE. (Muino, Daniel) (Entered: 09/08/2017)
09/20/2017		MINUTE ORDER: The Court is in receipt of the parties' <u>21</u> Joint Status Report wherein they represent that they intend to engage in further discussions to pursue a potential resolution of this matter. Accordingly, the parties shall file a further Status Report by OCTOBER 6, 2017, updating the Court regarding the status of these discussions, and indicating how the parties intend to proceed. Signed by Judge Colleen Kollar-Kotelly on 9/20/2017. (lcckk1) (Entered: 09/20/2017)
09/20/2017		Set/Reset Deadlines: Joint Status Report due by 10/6/2017. (dot) (Entered: 09/20/2017)

10/06/2017	<u>22</u>	Joint STATUS REPORT by INSTITUTE FOR JUSTICE. (Muino, Daniel) (Entered: 10/06/2017)
10/13/2017		MINUTE ORDER: The Court is in receipt of the parties' <u>22</u> Joint Status Report. Therein, Plaintiff requests a case management conference to discuss "next steps" in this action under the Freedom of Information Act. That request is denied as premature. Rather, the parties shall file a further Joint Status Report by NOVEMBER 17, 2017, updating the Court on their progress in reaching a negotiated resolution of this matter. To the extent a negotiated resolution is not forthcoming, the parties shall describe the nature of their dispute, in detail (i.e., addressing what data is available and what Plaintiff is requesting), and shall provide the Court with a proposal for how the dispute should resolved, and a proposed schedule. Signed by Judge Colleen Kollar-Kotelly on 10/13/2017. (lcckk1) (Entered: 10/13/2017)
10/13/2017		Set/Reset Deadlines: Joint Status Report due by 11/17/2017. (dot) (Entered: 10/18/2017)
11/17/2017	<u>23</u>	Joint STATUS REPORT by INSTITUTE FOR JUSTICE. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B)(Muino, Daniel) (Entered: 11/17/2017)
12/20/2017		MINUTE ORDER: The Court is in receipt of the parties' <u>23</u> Joint Status Report. Therein, the parties describe their attempts to resolve a specific issue with material withheld by Defendant. Plaintiff renews its request for "a case management conference to discuss this issue and set a case schedule." Defendant seeks additional time to "consider[ ] other alternatives" and is open to presenting its proposals "either at a status conference set by the Court or in a later joint status report." Accordingly, the Court finds that the request for a status conference remains premature. Rather, the parties shall file a further Joint Status Report by <b>JANUARY 5, 2018</b> , updating the Court on Defendant's alternative proposals, if any, for how the dispute should be resolved, and proposing a schedule for any briefing in this case. Signed by Judge Colleen Kollar-Kotelly on December 20, 2017. (lcckk1) (Entered: 12/20/2017)
12/20/2017		Set/Reset Deadlines: Joint Status Report due by 1/5/2018. (dot) (Entered: 12/20/2017)
01/05/2018	<u>24</u>	Joint STATUS REPORT by INSTITUTE FOR JUSTICE. (Muino, Daniel) (Entered: 01/05/2018)
01/08/2018		MINUTE ORDER: The Court is in receipt of the parties' <u>24</u> Joint Status Report, which indicates that Defendant has provided Plaintiff with certain sample screenprints and an accompanying spreadsheet, and that Plaintiff is currently reviewing these materials. Accordingly, with the parties' consent, they shall file a further Joint Status Report by <b>JANUARY 19, 2018</b> , addressing the Court's Minute Order of December 20, 2017. Signed by Judge Colleen Kollar-Kotelly on January 8, 2018. (lcckk1) (Entered: 01/08/2018)
01/08/2018		Set/Reset Deadlines: Joint Status Report due by 1/19/2018. (dot) (Entered: 01/09/2018)
01/19/2018	<u>25</u>	Joint STATUS REPORT by INSTITUTE FOR JUSTICE. (Muino, Daniel) (Entered: 01/19/2018)
02/12/2018		MINUTE ORDER: The Court is in receipt of the parties' <u>25</u> Joint Status Report, which indicates that, in response to Defendant's sample screenprints and accompanying spreadsheet, Plaintiff has made certain further requests to Defendant. The parties shall file a further Joint Status Report by <b>FEBRUARY 20, 2018</b> , updating the Court regarding Defendant's response to Plaintiff's requests. Signed by Judge Colleen Kollar-Kotelly on February 12, 2018. (lcckk1) (Entered: 02/12/2018)
02/20/2018	<u>26</u>	Joint STATUS REPORT by INSTITUTE FOR JUSTICE. (Muino, Daniel) (Entered: 02/20/2018)
03/16/2018		MINUTE ORDER: The Court is in receipt of the parties' <u>26</u> Joint Status Report, which sets forth the parties' agreement to Defendant's production of certain information in response to Plaintiff's further requests. The parties shall file a further Joint Status Report by <b>APRIL 23, 2018</b> , identifying all issues that have been resolved, identifying any remaining issues for litigation, and proposing a schedule for any briefing in this case. Signed by Judge Colleen Kollar-Kotelly on March 16, 2018. (lcckk1) (Entered: 03/16/2018)

03/16/2018		Set/Reset Deadlines: Joint Status Report due by 4/23/2018. (dot) (Entered: 03/19/2018)
04/23/2018	<u>27</u>	Joint STATUS REPORT by INSTITUTE FOR JUSTICE. (Muino, Daniel) (Entered: 04/23/2018)
05/03/2018		MINUTE ORDER: The Court is in receipt of the parties' <u>27</u> Joint Status Report, which sets forth the parties' divergent views as to the most efficient method for proceeding. Plaintiff appears to hurry a process for which Defendant has proposed a seemingly reasonable timeline. The Court agrees with Defendant that establishment of a briefing schedule at this time would be premature. The Court hereby orders Defendant to provide its written responses to the twenty-six fields that Plaintiff disputes being exempt under FOIA, as well as the manuals requested by Plaintiff, by <b>MAY 11, 2018</b> , as Defendant indicates it expects to do. The parties shall file a further Joint Status Report by <b>MAY 23, 2018</b> , identifying all issues that have been resolved, identifying any remaining issues for litigation, and proposing a schedule for further proceedings in this case. Signed by Judge Colleen Kollar-Kotelly on May 3, 2018. (lcckk1) (Entered: 05/03/2018)
05/03/2018		Set/Reset Deadlines: Defendant's Response due by 5/11/2018. Joint Status Report due by 5/23/2018. (dot) (Entered: 05/08/2018)
05/23/2018	<u>28</u>	Joint STATUS REPORT by INSTITUTE FOR JUSTICE. (Muino, Daniel) (Entered: 05/23/2018)
06/13/2018		MINUTE ORDER: The Court is in receipt of the parties' <u>28</u> Joint Status Report, which sets forth the parties' divergent views as to the most efficient method for proceeding. The Court agrees with Defendant that establishment of a briefing schedule at this time would be premature based on recent meet-and-confer discussions illustrating an ongoing process of responding to Plaintiff's latest request. It appears, however, that any remaining production can be completed in the short term and that this matter should move to summary judgment briefing if the parties genuinely cannot resolve their differences. If it has not already, Defendant shall complete its production of non-exempt data and provide any further descriptions of disputed data fields by <b>JULY 6, 2018</b> . The parties shall file a further Joint Status Report by <b>JULY 18, 2018</b> , identifying all issues that have been resolved, identifying any remaining issues for litigation, and proposing a schedule for further proceedings in this case. Signed by Judge Colleen Kollar-Kotelly on June 12, 2018. (lcckk1) (Entered: 06/13/2018)
06/13/2018		Set/Reset Deadlines: Joint Status Report due by 7/18/2018. (dot) (Entered: 06/15/2018)
06/29/2018	<u>29</u>	MOTION for Extension of Time to <i>Release Records</i> by U.S. CUSTOMS AND BORDER PROTECTION (Walker, Johnny) (Entered: 06/29/2018)
07/03/2018		MINUTE ORDER: The Court is in receipt of Defendant's <u>29</u> Motion for an Extension of Time to Release Records, which seeks to "briefly" vacate the July 6, 2018, deadline for the production that the Court ordered in its Minute Order of June 13, 2018. Defendant wants to adjust the deadline for production due to ongoing negotiations with Plaintiff about the scope of the database pull that Defendant will perform. Plaintiff withheld consent to this motion for lack of Defendant's commitment to a firm deadline for the production of "indisputably nonexempt" information. But in light of Defendant's representation that ongoing negotiations render Defendant unable at this time to propose a revised deadline, the Court shall GRANT Defendant's motion, for good cause shown, and VACATE the production deadline for the time being. The parties shall submit a Joint Status Report by <b>JULY 20, 2018</b> , proposing a revised deadline for production to which Defendant shall commit to adhere. Signed by Judge Colleen Kollar-Kotelly on July 3, 2018. (lcckk1) (Entered: 07/03/2018)
07/03/2018		Set/Reset Deadlines: Joint Status Report due by 7/20/2018. (dot) (Entered: 07/03/2018)
07/20/2018	<u>30</u>	Joint STATUS REPORT by U.S. CUSTOMS AND BORDER PROTECTION. (Walker, Johnny) (Entered: 07/20/2018)
08/02/2018		MINUTE ORDER: The Court is in receipt of the parties' <u>30</u> Joint Status Report, in which Defendant conditionally commits to produce the data at issue by November 20, 2018. Both parties indicate a willingness to continue negotiating regarding exemptions



		and other issues. In light of the forthcoming dates that Defendant has identified, the Court adopts Plaintiff's proposal that the parties file a further Joint Status Report by <b>AUGUST 10, 2018</b> . This Joint Status Report shall identify all issues that have been resolved and further justify the parties' proposal(s) for how long the pull and production of data should require. Signed by Judge Colleen Kollar-Kotelly on August 2, 2018. (lcckk1) (Entered: 08/02/2018)
08/02/2018		Set/Reset Deadlines: Joint Status Report due by 8/10/2018, identifying all issues that have been resolved and further justify the parties' proposal(s) for how long the pull and production of data should require. (dot) (Entered: 08/02/2018)
08/10/2018	<u>31</u>	Joint STATUS REPORT by INSTITUTE FOR JUSTICE. (Muino, Daniel) (Entered: 08/10/2018)
08/15/2018		MINUTE ORDER: The Court is in receipt of the parties' <u>31</u> Joint Status Report. As of filing, Defendant was continuing to prepare a sample data pull in order to efficiently facilitate the completion of production by November 20, 2018, conditional on agreeing certain terms with Plaintiff. Defendant justifies the timeline based on the magnitude of Plaintiff's data request, as well as the difficulty of preparing a "decipherable" production of data that has proven technically challenging to export. Notwithstanding Plaintiff's frustration with the rate of progress, the Court finds that Defendant's approach appears to be the most efficient method of completing production. The Court declines at this time to establish a briefing schedule applicable to only a portion of the anticipated production. The parties shall file a further Joint Status Report by <b>AUGUST 29, 2018</b> , identifying Defendant's progress towards the November 20, 2018, deadline and the parties' progress in negotiating terms to make production by that date achievable. Signed by Judge Colleen Kollar-Kotelly on August 15, 2018. (lcckk1) (Entered: 08/15/2018)
08/15/2018		Set/Reset Deadlines: Joint Status Report due by 8/29/2018. (dot) (Entered: 08/15/2018)
08/29/2018	<u>32</u>	Joint STATUS REPORT by INSTITUTE FOR JUSTICE. (Muino, Daniel) (Entered: 08/29/2018)
09/04/2018		MINUTE ORDER: The Court is in receipt of the parties' <u>32</u> Joint Status Report. As of filing, Defendant was continuing to prepare a sample data pull in order to efficiently facilitate the completion of production by November 20, 2018, conditioned on agreeing to certain terms with Plaintiff. Defendant has continued to face challenges in preparing data for export but has been allocating resources to address these challenges. Defendant now anticipates finalizing a sample for Plaintiff's review by September 10, 2018. Notwithstanding Plaintiff's frustration with the rate of progress, the Court shall not order firm deadlines for the sample production, completion of the data pull, or completion of the final production, where the Court's order may short-circuit an approach that Defendant credibly justifies. The parties shall file a further Joint Status Report by <b>SEPTEMBER 25, 2018</b> , updating the Court regarding the status of the sample data pull, the full data pull, and other progress towards the anticipated final production of data by November 20, 2018. Signed by Judge Colleen Kollar-Kotelly on September 4, 2018. (lcckk1) (Entered: 09/04/2018)
09/04/2018		Set/Reset Deadlines: Joint Status Report due by 9/25/2018, updating the Court regarding the status of the sample data pull, the full data pull, and other progress towards the anticipated final production of data. (dot) (Entered: 09/06/2018)
09/25/2018	<u>33</u>	Joint STATUS REPORT by INSTITUTE FOR JUSTICE. (Muino, Daniel) (Entered: 09/25/2018)
10/11/2018		MINUTE ORDER: The Court is in receipt of the parties' <u>33</u> Joint Status Report, which indicates that Defendant produced the sample data pull contemplated in the Court's Minute Order of September 4, 2018, and that Plaintiff found the format to be acceptable. Defendant continues to work towards completing the full data pull by November 20, 2018. The parties shall meet and confer regarding remaining issues in an attempt to ensure that such full data pull resolves this matter to the extent possible. The parties shall file a further Joint Status Report by <b>OCTOBER 25, 2018</b> , regarding the results of their discussion and an update on the status of Defendant's data collection. Signed by Judge Colleen Kollar-Kotelly on October 11, 2018. (lcckk1) (Entered: 10/11/2018)

10/11/2018		Set/Reset Deadlines: Joint Status Report due by 10/25/2018, regarding the results of their discussion and an update on the status of Defendant's data collection. (dot) (Entered: 10/12/2018)
10/25/2018	<u>34</u>	Joint STATUS REPORT by INSTITUTE FOR JUSTICE. (Muino, Daniel) (Entered: 10/25/2018)
10/29/2018		MINUTE ORDER: The Court is in receipt of the parties' <u>34</u> Joint Status Report, which indicates that the parties have been working through remaining issues and Defendant has been pulling and assembling data in an effort to complete the full data pull by November 20, 2018. The parties shall file a further Joint Status Report by <b>NOVEMBER 28, 2018</b> , regarding the status of Defendant's data collection and production. Signed by Judge Colleen Kollar-Kotelly on October 29, 2018. (lcckk1) (Entered: 10/29/2018)
10/29/2018		Set/Reset Deadlines: Joint Status Report due by 11/28/2018. (zot) (Entered: 10/29/2018)
11/28/2018	<u>35</u>	Joint STATUS REPORT by INSTITUTE FOR JUSTICE. (Muino, Daniel) (Entered: 11/28/2018)